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January 16, 2019

By ECF

The Honorable Lorna G. Schofield
United States District Judge
for the Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Jane Doe, et al. v. The Trump Corporation, et al.*, 18-cv-09936 (LGS)

Dear Judge Schofield:

We write in response to Plaintiffs' letter to the Court of this morning, to note that:

1. Footnotes 2 and 3 of our Memorandum of Law in Support of Defendants' Motion to Dismiss set forth the authority, well-settled in this Circuit, for including for the Court's consideration on a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), materials quoted within, relied upon, or that are otherwise integral to the Complaint.
2. All of the exhibits to Ms. Chen's affirmation fit comfortably within this case law. Each, with three exceptions, consists of an ACN video disc, a transcript of that video disc, or ACN print material from which Plaintiffs quote and on which they expressly rely in their Complaint – the exceptions being the ACN contracts which Plaintiffs signed to become IBOs, documents plainly integral to this lawsuit.
3. With respect to the Opportunity Disc exhibits to which Plaintiffs appear to object, we note here, as we do in our memorandum of law, that Plaintiffs have explicitly pled that Mr. Trump's appearances on these discs exist in "substantially the same form" from year to year. *See* Compl. ¶ 78 ("The Opportunity Disc was updated frequently, sometimes more than once per year. Each edition of the Opportunity Disc during the period of Trump's endorsement included prominent footage of Trump giving his personal endorsement to ACN and the business opportunity it offered. Indeed, the same footage of Trump was reused frequently in successive editions with only minor editing between editions. The effect was consistent: during the relevant time period, the Message was conveyed in every edition of the Opportunity Disc in substantially the same form.")

Hon. Lorna G. Schofield
United States District Judge

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The Court, of course, will make the ultimate determination as to whether and to what extent it relies on this material in considering our motion, but the law is crystal clear that it may do so if it chooses.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JCH', is written below the word 'Sincerely,'.

Joanna C. Hendon